



12W

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of:

Kai LICHIA et al.

Confirmation No.: 9681

Serial No.: 10/626,719

Examiner: David Lukton

Filed: July 25, 2003

Group Art Unit: 1654

Title: SHORT-WARP PEPTIDE DYE CONJUGATE AS CONTRAST AGENT FOR OPTICAL DIAGNOSTIC

**RESPONSE TO REQUIREMENT FOR ELECTION OF SPECIES**

MAIL STOP FEE AMENDMENT

Commissioner for Patents

Box 1450

Alexandria, Virginia 22313-1450

SIR:

In response to the Office Action mailed December 5, 2005, and the requirement for an election of species therein, applicants hereby make the following elections. For the species of claims 34-36, applicants elect the cyanine dye is of the formula XVIII in claim 34 wherein R1 and R2 are both 4-sulfobutyl, R3 is hydrogen, p is 3 and n is 2. It is believed that only claim 34 encompasses the elected species. For the species of claim 37, applicants elect SEQ ID: 5. It is believed that only claim 37 encompasses this species.

The Examiner is encouraged to examine the broadest possible scope of invention indicated by each elected species.

In accordance with M.P.E.P. §803.02, the Examiner is reminded that, should no prior art be found which renders the invention of the elected species unpatentable, the search of the remainder of the generic claim(s) should be continued in the same application. It is improper for

the PTO to refuse to examine in one application the entire scope of the claims therein unless they lack unity of invention. The generic claims herein have not been alleged to lack unity of invention.

Favorable action is earnestly solicited.

The Commissioner is hereby authorized to charge any fees associated with this response or credit any overpayment to Deposit Account No. 13-3402.

Respectfully submitted,



John A. Sopp  
Registration No. 33,103  
Attorney for Applicants

MILLEN, WHITE, ZELANO  
& BRANIGAN, P.C.  
Arlington Courthouse Plaza I  
2200 Clarendon Blvd. Suite 1400  
Arlington, Virginia 22201  
Telephone: (703)243-6333  
Facsimile: (703) 243-6410  
Attorney Docket No.: SCH-1731 D1

Date: January 5, 2006